IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

C.W.P. No. 2368 of 2006

Date of Decision: November 2, 2006

Krishan Chand

…..Petitioner

Vs.

Haryana State Agricultural Marketing Board and another

…..Respondents

CORAM: HON'BLE MR. JUSTICE M.M. KUMAR.

HON'BLE MR. JUSTICE M.M.S. BEDI.

Present:- Mr. Raman B. Garg, Advocate
for the petitioner.

Mr. S.P. Singh, Advocate
for the respondents.

-.-

M.M. KUMAR. J. (ORAL)

The prayer made by the petitioner in this petition is for quashing order dated April 23, 2002 (P-6) passed by the Secretary, Haryana State Agricultural Marketing Board, Panchkula- respondent No.2. the order dated January 6, 2006 (P-7) refixing the pay of the petitioner is also subject

matter of challenge in the instant petition and also the recovery which is sought to be made after refixation. It is undisputed that the petitioner did not make any misrepresentation or concealed any fact when the benefit of second higher standard scale of Rs.1400-2600 w.e.f. January 1,1994 was granted to him. It is infact admitted position in para 8 of the written statement that the aforementioned benefit was inadvertently granted to the petitioner, which is sought to be set right by the impugned order and recovery is sought to be effected in respect of the amount paid in pursuance to the incorrect order passed.

Mr. Raman B. Garg, learned counsel for the petitioner has confined the relief only to that part of the order which seeks to recover the over-payment made to the petitioner after refixation. In other words, he does not wish to challenge the refixation part. For that proposition, he has placed reliance on a judgment of Hon'ble the Supreme Court in the case of **Sahib Ram v. State of Haryana**, 1995 (1) SCT 668 and submitted that the petitioner did not misrepresent at any stage and the higher standard pay scale was mistakenly granted to him by the respondents, and therefore, no recovery on the basis of the aforementioned judgment of the Hon'ble Supreme Court could be effected.

Mr. S.P.Singh, learned counsel for the respondents, however, has argued that once it is found that the benefit of second higher standard pay scale was given to him, then in law, the petitioner is supposed to refund all the benefits which he has obtained on account of incorrect order. Therefore, the respondents are entitled to recovery.

Having heard the learned counsel for the parties, we find that the writ petition deserves to be allowed to the extent that no recovery from the petitioner could be effected on account of grant of the benefit of second higher standard scale of Rs.1400-2600/- w.e.f. January 1,1994. the petitioner has fairly conceded that he has not challenged the denial of the aforementioned second higher standard scale of Rs.1400-2600 w.e.f. January 1, 1994 and has confined his prayer only to the recovery part. The aforementioned submission of the learned counsel for the petitioner is fully supported by the judgment of the Hon'ble Supreme Court in **Sahib Ram's** case (supra). Therefore, the writ petition is allowed and the part of the impugned order seeking to recover the excess amount paid to the petitioner is hereby quashed. The parties are left with their own costs.

(M.M.KUMAR)
JUDGE

November 2, 2006
sanjay

(M.M.S.BEDI)
JUDGE